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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* EMANUEL KULHANEK

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Appeal 2009-013235  
Application 09/898,679  
Technology Center 3600

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Before LINDA E. HORNER, MICHAEL W. O'NEILL, and  
STEFAN STAIKOVICI, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Emanuel Kulhanek (Appellant) seeks our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Palynchuk (US 3,559,905; issued February 2, 1971) and DESIGN ENGINEERS HANDBOOK, Bulletin 0224-B1, at f-8 (Parker Fluidpower 1979) (hereinafter "DEH"). We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

## THE INVENTION

Appellant's claimed invention is directed to a continuous feed injection unit used to manipulate well strings for well site operations that operates in a dual speed configuration. Spec. 1, paras. 02, 04. Claim 1 is reproduced below (emphasis added).

1. A continuous feed injection unit, comprising:
  - a first hydraulic motor;
  - a second hydraulic motor;
  - cooperating continuous well string gripping chains connected to be driven by the first and second hydraulic motors;
  - a hydraulic power supply connected to provide pressurized fluid to the first and second hydraulic motors, and each of the first and second hydraulic motors being connected through respective first and second drain lines to a hydraulic fluid return to form an open loop hydraulic supply;
  - a control system for the hydraulic power supply;

*the control system for the hydraulic power supply having a motor speed control valve with at least a first and second operating configuration, the first operating configuration providing power fluid to the first and second hydraulic motors in parallel and the second operating configuration providing power fluid to the first and second hydraulic motors in series;*

the control system for the hydraulic power supply incorporating a motor direction control valve through which the power fluid flows, the motor direction control valve being configured to reverse flow of power fluid through the first and second hydraulic motors; and

the continuous chains comprising a first continuous chain and a second continuous chain, the first continuous chain being driven by the first hydraulic motor and the second continuous chain being driven by the second hydraulic motor.

#### CONTENTION AND ISSUE

Appellant contends that the Examiner improperly ignored the inventive step required to apply known principles to the solutions of problems that have not been previously identified, and as such, the Examiner used impermissible hindsight in rejecting claim 1. Br. 8-9.

The issue presented by this appeal is whether the Examiner articulated adequate reasoning to explain how one of ordinary skill in the art at the time of Appellant's invention would have been led to the subject matter of claim 1 in view of Palynchuk and DEH.

### ANALYSIS

The claim calls for the control system for the hydraulic power supply to have a motor speed control valve that provides power fluid to the first and second hydraulic motors in parallel and in series.

Palynchuk discloses an apparatus for pulling a continuous metal member out of a well that uses “[c]onventional equipment . . . to control the speed, power output and direction of rotation of [a pair of hydraulic motors].” Ans. 3; *see also* Palynchuk, col. 6, ll. 17-19. Palynchuk teaches that the apparatus has three advantageous features: (1) it does not permanently deform the rod string, (2) it can be quickly rigged up and dismantled and is mounted on a suitable conveyance for portability, and (3) it can pull and run the rod string at a speed at least equal to conventional equipment. Palynchuk, col. 8, ll. 64-72. Palynchuk teaches that “[t]he second and third features add up to a servicing unit which is ‘fast,’ and therefore desirable for well servicing work.” Palynchuk, col. 8, ll. 70-72. Palynchuk discloses that “[r]adial, reciprocating-type piston hydraulic motors, having a high torque output at low speeds, are suitable for the purposes of the apparatus.” Palynchuk, col. 6, ll. 11-13. Palynchuk thus discloses a pair of hydraulic motors having high torque output and low speeds that are controlled using conventional equipment. Palynchuk does not identify any problem in the art that would necessitate use of a motor speed control valve with the claimed first and second operating configurations, wherein power fluid is supplied to the motors in parallel in one configuration and in series in the other configuration.

DEH is a handbook that discloses a circuit diagram for bidirectional series/parallel motors for use “[i]n a system that requires two motors giving high-speed, low-torque and low-speed, high-torque.” DEH, p. f-8, (circuit f-16).

The Examiner’s articulated reason for modifying Palynchuk with the circuit from DEH is that “it would be advantageous to . . . have the ability to operate the motors such that they can alternate between high speed and high torque.” Ans. 4. We are uncertain as to the basis for this reasoning.

Palynchuk does not identify any need in its system for its two motors to provide both high-speed, low-torque and low-speed, high torque. While DEH discloses that its circuit allows two motors to alternate between these two operating conditions, it does not teach or suggest any reason that these two operating conditions would be advantageous in the well string art. Looking beyond the cited art, the Examiner failed to identify a reason, based on demands known in the design community or present in the marketplace, or background knowledge possessed by a person of ordinary skill in the art at the time of Appellant’s invention, that would have prompted a person of ordinary skill to modify Palynchuk’s apparatus to include a motor speed control valve with the claimed first and second operating configurations. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). In other words, the Examiner has not identified any other condition of such well-string injection systems known in the art at the time of Appellant’s invention that would have necessitated two hydraulic motors be configured to provide both high-speed, low-torque and low-speed, high torque.

In view of the prior art before us, we see no reason, beyond Appellant's own disclosure, that would have led one of ordinary skill in the art to modify Palynchuk's apparatus to include a motor speed control valve with the claimed first and second operating configurations. As such, we cannot sustain the Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Palynchuk and DEH.

#### CONCLUSION

The Examiner failed to articulate adequate reasoning to explain how one of ordinary skill in the art at the time of Appellant's invention would have been led to the subject matter of claim 1 in view of Palynchuk and DEH.

#### DECISION

The decision of the Examiner to reject claim 1 is REVERSED.

#### REVERSED

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